

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 4623 OF 2004

Indian Bank .. Petitioner.
V/s.

The Pune Municipal Corporation
of the City of Pune and Ors. .. Respondents.

Mr. P.M. Pethe and Ms. Pitambare & Co. for the
petitioner.

Mr. Rajesh Ketkar for respondent No.1.

CORAM : ANOOP V.MOHTA, J.

DATE : 25TH NOVEMBER, 2004.

P.C.

. Heard. The petitioner bank has invoked the provisions of Article 227 of the Constitution of India and challenged the impugned order dated 29th April, 2003, passed by the Additional District Judge, Pune, whereby, it's application for restoration of the appeal, was dismissed. There is no dispute to the fact, that the application for condonation of delay in filing the said restoration application, was considered and allowed. I am of the view, that once the condonation of the delay application was considered and it is allowed, there is no reason why this application for restoration of the appeal should not have been considered on merit itself. Therefore, in view of the averments made in the

petition, and after consideration of rival contentions between the parties, the present petition is allowed in terms of prayer clause (b). The impugned order is therefore, set aside and the application for restoration of appeal is allowed. The Civil Appeal No.531/2004 be heard expeditiously. No order is to costs.

2. C.C. expedited.

[ANOO P V. MOHTA, J.]